

Appeals from decisions of New Mexico State Office, Bureau of Land Management, rejecting appellant's high bids for competitive oil and gas leases NM 58062 OK, NM 58063 OK, and NM-A 58073 OK.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

The Secretary of the Interior has the authority to reject a high bid in a competitive oil and gas lease sale where the record shows a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases: Discretion to Lease

Where a competitive oil and gas lease high bid is not clearly spurious or unreasonable on its face and the record fails to disclose a sufficient factual basis for the conclusion that the bid is inadequate, the decision will be set aside and the case remanded for compilation of a more complete record and readjudication of the bid. A record that does not reveal the presale evaluation for a parcel and sufficient supporting data to establish its prima facie correctness cannot support rejection of the high bid for the parcel.

APPEARANCES: Suzanne Walsh, pro se.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Suzanne Walsh appeals from decisions of the New Mexico State Office, Bureau of Land Management (BLM), dated November 29, 1983, rejecting her high bids for competitive oil and gas leases NM 58062 OK, NM 58063 OK, and NM-A 58073 OK. 1/ Appellant submitted bids of \$200 (\$5 per acre) for

1/ The lands included in these leases are described as follows:

NM 58062 OK (Parcel 49 -- 40 acres)
SE 1/4 NW 1/4, sec. 21, T. 26 N., R. 19 W., I.M.,
Woodward County, Oklahoma

parcel 49, \$480 (\$12 per acre) for parcel 52, and \$560 (\$7 per acre) for parcel 63.

By identical preprinted form decisions dated November 29, 1983, BLM rejected appellant's bids. The only reason given for the rejection was that BLM's evaluation of these parcels shows that the bids were "less than the pre-sale tract valuation."

Each file contains a copy of a memorandum dated November 15, 1983, in which the Acting Deputy State Director, Mineral Resources, reported to the Deputy State Director, Operations, that the high bids for several parcels, including parcels 49, 52, and 63, were lower than the presale estimates of value. The memorandum recommends rejection of the high bids for these parcels. No data in support of this recommendation appear in the files.

On appeal, appellant contends that her bids for parcels 49 and 52 are adequate because there is no geological promise in these areas. Appellant notes that there are dry holes in the vicinity of these parcels. As for parcel 63, appellant believes that her bid is adequate since the existing well in the section is not a good producer and drilling costs are estimated at 3 million dollars.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1982); see, e.g., Viking Resources Corp., 80 IBLA 245 (1984); Edward L. Johnson, 73 IBLA 253 (1983). This Board has consistently upheld that authority, so long as there is a rational basis for the conclusion that the highest bid does not represent fair market value for the parcel. E.g., Clarence Sherman, 82 IBLA 64, 65 (1984); Viking Resources Corp., *supra* at 246; Glen M. Hedge, 73 IBLA 377, 378-79 (1983); Edward L. Johnson, *supra* at 254-55. Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases; and the Secretary reserves the right to reject a bid which will not provide a fair return. Viking Resources Corp., *supra* at 246; Glen M. Hedge, *supra* at 379; Coquina Oil Corp., 29 IBLA 310, 311 (1977).

[2] The Department is entitled to rely on the reasoned analysis of its technical experts in matters involving geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases. Viking Resources Corp., *supra* at 247; L. B. Blake, 67 IBLA 103 (1982). However, when BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation is provided in the record to support the decision. E.g., Mesa Petroleum Co., 81 IBLA 194, 195 (1984); Edward L. Johnson, *supra* at 255. Otherwise, if the bid is not clearly spurious or unreasonable on its face,

fn. 1 (continued)

NM 58063 OK (Parcel 52 -- 40 acres)
 NE 1/4 NW 1/4, sec. 17, T. 11 N., R. 24 W., I.M.,
 Roger Mills County, Oklahoma
 NM-A 58073 OK (Parcel 63 -- 80 acres)
 N 1/2 SW 1/4, sec. 1, T. 14 N., R. 24 W., I.M.,
 Roger Mills County, Oklahoma

the Board has consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and readjudication of the acceptability of the bid. E.g., Kevin J. Bliss, 82 IBLA 31, 32 (1984); Mesa Petroleum Co., supra at 195; Edward L. Johnson, supra at 255. Southern Union Exploration Co., 41 IBLA 81, 84 (1979).

We are unable to ascertain a reasonable basis for the BLM decision on the present records. There is insufficient elaboration of factual data in the record. See Mesa Petroleum Co., supra at 196; Davis & Smith, Ltd., 73 IBLA 22, 24 (1983). The record does not set forth the presale evaluation, any of the information on which it is based, or the manner in which it was calculated. In order for this Board to find that BLM had a rational basis for its conclusion, we must know that basis. Although this Board will not substitute its judgment for that of BLM in determining the fair market value of the parcels, the Board will require sufficient facts and analysis to ensure that a rational basis for the determination is present. E.g., Mesa Petroleum Co., supra at 196; Viking Resources Corp., 77 IBLA 57, 59 (1983). The Board has held that the ultimate burden is on appellant to establish that his bid represents fair market value. However, a bid rejection cannot be sustained for failure to meet this burden in the absence of the presale evaluation and sufficient documentation in support thereof to establish its prima facie correctness. R. T. Nakaoka, 81 IBLA 197, 200 (1984).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are set aside and the cases are remanded for action consistent herewith.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

R. W. Mullen
Administrative Judge

